

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NORTH DAKOTA**



**CJA
INFORMATION
PACKET**

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CJA PANEL REPRESENTATIVE

The CJA Panel Representative is available to provide CJA representative services for all counsel in the District of North Dakota who are appointed under the Criminal Justice Act (CJA). [CJA Plan § IV\(B\)](#).

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GENERAL INFORMATION FOR COUNSEL APPOINTED UNDER THE CRIMINAL JUSTICE ACT

Pursuant to the Criminal Justice Act (18 U.S.C. § 3006A), the judicial officers of this Court have adopted a Plan for Adequate Representation of Defendants Pursuant to the Criminal Justice Act of 1964, as amended ([CJA Plan](#)).

Counsel appointed by the Court must continue to serve until the purpose of the appointment is accomplished or until the appointment is terminated by Court order. [§ 220.20; CJA Plan § VI\(A\)](#).

In the event a defendant is convicted by guilty plea or at trial, counsel must advise the defendant of the right to appeal and of the right to counsel on appeal. If requested to do so by the defendant, counsel must file a timely notice of appeal and must continue to represent the defendant unless, or until, relieved by this Court or by the Court of Appeals. [CJA Plan § VI\(B\)](#)

Counsel must report to the Court any change in a defendant's financial status when it appears that the defendant is able to finance all or part of the representation. [§ 210.10.30; CJA Plan § VI\(C\)](#)

Counsel appointed by the Court under the Act are provided with a CJA 20 voucher form, Appointment of and Authority to Pay Court Appointed Counsel.

This packet contains information that will help you complete the form and expedite payment for service as Court appointed counsel.

CJA ATTORNEY PAYEE REGISTRATION

Each CJA panel attorney must complete a [CJA Attorney Payee Registration](#) form. The attorney is responsible for advising the Court of any changes regarding payment (i.e., change of address, change of law firm, change of name).

The Criminal Justice Act requires that attorneys (not law firms) be appointed. The Social Security Number (SSN) of each panel attorney is always required to properly identify the payee.

Some attorneys may have a pre-existing agreement with a law firm or corporation, indicating that the CJA earnings belong to the law firm or corporation, rather than to the Court appointed attorney. A pre-existing agreement will allow earnings to be reported to the IRS on a Form 1099M as earnings of the law firm and not as earnings of the attorney.

Attorneys who have a pre-existing agreement with a law firm or corporation must provide the name, address, and Employer Identification Number (EIN) of the law firm or corporation to the Court.

Payments to Attorneys WITHOUT a Pre-Existing Agreement with a Law Firm or Corporation will be reported on the IRS Form 1099.

Payments to Attorneys WITH a Pre-Existing Agreement with a Law Firm or Corporation will be reported on the IRS Form 1099M to the law firm or corporation's EIN. Attorneys will not receive a Form 1099 for these payments.

LIMITED CJA APPOINTMENT

When the Office of the Federal Public Defender notifies the Court of a scheduling conflict that will not permit an Assistant Public Defender to attend a pretrial services interview or other pretrial matters, the Court will contact one of the CJA panel attorneys for a limited CJA appointment. Counsel will be provided with a CJA 20 voucher form and are subject to the same rules and requirements as though appointed for the duration of the case. The limited CJA appointment remains in effect until the Assistant Federal Public Defender files a notice of appearance in the case, at which point the CJA 20 voucher form may be submitted to the clerk's office for payment. [CJA Plan § V\(I\)](#).

CASE BUDGETING

The District of North Dakota requires CJA counsel to submit case budgeting worksheets for representations in which attorney hours are expected to exceed 300 hours or total expenditures are expected to exceed \$30,000. [§ 230.26.10; CJA Plan § VII\(A\)\(2\)](#)

For additional information on case budgeting please contact:

JoAnn Ordahl in Fargo at 701-297-7000 -or- Lisa Carney in Bismarck at 701-530-2300.

COMPENSATION AND EXPENSES OF APPOINTED COUNSEL (CJA 20)

U.S. Courts [Instructions for CJA Form 20](#)

Pro-rating Travel, Expenses, and Attorney Time

Time spent in common on more than one case must be prorated among the cases and each case must be cross-referenced on the supporting materials to the vouchers. Time or expenses "spent in common" includes work performed simultaneously or within the same unit or time, or expenses incurred, for more than one representation (e.g. travel on behalf of more than one client or appearing in Court with more than one client). Double billing of time or expenses is prohibited. [§ 230.50](#)

Interim Payment

The presiding judge may authorize interim payment to counsel. [§ 230.73](#) Counsel must submit a completed CJA 20 indicating dates of service in Block 19 and check “Interim Payment” in Block 22. To submit subsequent payments, counsel should either print a copy of the CJA 20 form from the CM/ECF file or request a copy from the clerk’s office.

Case Compensation and Hourly Rates

Attorney Case Compensation Maximums* (Non-Capital Cases)	Current	prior to 1/1/10
Felony	\$9,700	\$8,600
Misdemeanor	\$2,800	\$2,400
Appeal (either a Felony or Misdemeanor)	\$6,900	

*Compensation limits apply only to attorney’s fees and do not include expense reimbursements.

A full listing of Current Attorney Case Compensation Maximums is set forth in [§ 230.23.20](#).

A history of case compensation maximums is set forth in [§ 230.23.30](#).

Hourly Compensation Rate	Current	prior to 1/1/2010
In-Court and Out-of-Court rate	\$125 per hour	\$110 per hour
Capital Cases	\$178 per hour	\$175 per hour

A full listing of prior compensation rates is set forth in [§ 230.16](#) and [§ 630.10.10\(a\)](#).

Unless separately appointed as CJA counsel, co-counsel, or associate attorneys may not submit their own CJA forms to be compensated under the CJA. However, an appointed counsel may claim compensation for services furnished by a partner or associate or, with prior authorization by the Court, counsel who is not a partner or associate, within the maximum compensation allowed by the CJA, separately identifying the provider of each service. [§ 230.53.10 \(a\) & \(b\)](#).

Substitution of Counsel

If it becomes necessary to substitute an attorney for an attorney previously appointed in the case, the total compensation that may be paid to both attorneys appointed under the plan must not exceed the statutory maximum, unless the case involves extended or complex representation. In such cases, voucher approval may be delayed until the disposition of the case so the Court may fairly apportion the amounts between the attorneys. [§ 230.50](#)

Transcript Review

An attorney appointed to the Criminal Justice Act (CJA) is entitled to compensation under the CJA for functions performed to fulfill his or her obligations under the transcript policy, including the following:

1. traveling to gain access to the transcript, if needed;
2. reviewing a transcript to determine whether to file notice of intent to redact;
3. filing of a notice of intent to redact or a motion for an extension of time;
4. reviewing a transcript to determine the location of information to be requested to be redacted or whether to file a motion for additional redaction;
5. preparing and filing a redaction request or motion; and
6. other actions (including creating pleadings, attending hearings or other follow-up).

The attorney is also entitled to reimbursement under the CJA for the costs of obtaining a transcript for purposes of review. If a case involving a CJA representation has already been closed and the original attorney is no longer available, or if standby counsel is no longer available, new counsel may be appointed under the CJA and compensated as outlined above. In the event that the original appointed counsel is still available, but has filed a final voucher for the underlying case, the attorney may be permitted to file a supplemental voucher for compensation. [See Judicial Conference Transcript Policy](#).

Record keeping

Appointed counsel must maintain contemporaneous time and attendance records for all work performed, including work performed by associates, partners and support staff, as well as expense records. Such records, which may be subject to audit, must be retained by counsel for three years after approval of the final voucher. [§ 230.76; CJA Plan § VII\(A\)\(6\)](#).

Completing the In-Court Hourly Worksheet

The [in-court hourly worksheet](#) must contain the following:

1. case number,
2. date service was performed,
3. a brief description of the service performed,
4. the time spent performing the service (**tenths of hours**), and
5. page number.

When all in-court services have been documented, total each column on the page. If more than one page is necessary, list the grand total of each column on the final page of the worksheet.

Transfer the grand total for each column on the CJA voucher form at Block 15. A copy of the in-court hourly worksheet must be attached to the CJA 20 voucher form.

Completing the Out-of-Court Hourly Worksheet

The [out-of-court hourly worksheet](#) must contain the following:

1. case number,
2. date service was performed,
3. a brief description of the service performed,
4. the time spent performing the service (**tenths of hours**), and
5. page number.

When all out-of-court services have been performed, total each column on the page. If more than one page is necessary, list the grand total of each column on the final page of the worksheet.

Transfer the grand total for each column to Block 16 on the CJA 20 voucher form. A copy of the out-of-court worksheet must be attached to the CJA 20 voucher form.

Compensation for time spent in reasonable and necessary travel must include only those hours actually spent in or awaiting transit. Compensable travel time begins when the attorney leaves home or office and terminates upon arrival at the destination. [§ 230.60](#)

Completing the Expense Worksheet

The [expense worksheet](#) must contain the following:

1. case number,
2. date expense was incurred,
3. a brief explanation of the expense,
4. the amount of the expense incurred, and
5. page number.

Attach receipts and supporting documentation for all travel expenses and for any other expense in excess of \$50. [Instructions for CJA Form 20, Item 18.](#)

Claims for mileage expense should indicate the total number of miles and the applicable mileage rate. Transportation other than by privately owned automobile should be claimed on an actual expense basis. [§ 230.63.40](#)

Current mileage rates can be found at: <http://www.gsa.gov/portal/content/100715>

Per diem in lieu of subsistence is not allowable, since the CJA provides for reimbursement of expenses actually incurred. Therefore, counsel's expenses for meals and lodging incurred in the representation of the defendant would constitute reimbursable "out-of-pocket" expenses. In determining whether actual expenses incurred are "reasonable," counsel should be guided by the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with existing government travel regulations (i.e., travel time must be 10 hours or more in one day to be reimbursed for meals). [§ 230.63.40 \(b\)&\(c\)](#)

Current judiciary per diem rates: <http://www.gsa.gov/portal/category/21287>

Claims for copying and facsimile expenses should indicate the number of copies and the applicable charge per copy. §§ 230.63.10 and 230.63.70

The cost of computer-assisted legal research services is a reimbursable out-of-pocket expense, provided that the amount claimed is reasonable. A copy of the bill and receipt for the use of the legal research services or an explanation of the precise basis of the charge (e.g., indicating the extent to which it was derived by proration of monthly charges, or by charges identifiable to the specific research) must be attached to the voucher. § 230.63.30

When all expense items have been identified, total each column on the page. If more than one page is required, list the grand total of each column on the final page of the worksheet.

Transfer the amounts to Blocks 17 and 18 on the CJA 20 voucher form. A copy of the expense worksheet must be attached to the CJA 20 voucher form.

The following items are **NOT REIMBURSABLE** and should not be claimed on voucher:

1. general office overhead § 230.66.10;
2. items of personal nature purchased for or on behalf of defendant (new clothes, haircut, cigarettes, candy, meals, etc.) § 230.66.20;
3. filing fees § 230.66.30;
4. printing of briefs (copying charges are reimbursable) § 230.66.40;
5. service of process (see Rule 17, Fed.R.Crim.P. & 28 U.S.C. § 1825) § 230.66.50;
6. taxes on compensation received pursuant to the CJA § 230.66.60; and
7. alcoholic beverages, entertainment, parking fines or fees for traffic violations, and personal automobile expenses. [National CJA Voucher Reference Tool - Non-Reimbursable Expenses; Judiciary Staff Travel Regulations, Guide, Vol. 19, § 410.10.](#)

Claims in Excess of Statutory Limit

Counsel claiming compensation in excess of the statutory limitation **must** submit with the voucher a detailed memorandum or letter supporting and justifying their claim that the case was complex or extended and the excess payment is necessary to provide fair compensation. § 230.30; [CJA Plan § VII\(A\)\(4\)](#).

Completed Vouchers

Counsel must submit the completed CJA 20 voucher form no later than 45 days after the final disposition of the case, unless good cause is shown. Copies of all supporting documents which itemize or explain the amounts shown on the CJA 20 voucher form must be attached. § 230.13

Completed vouchers and worksheets should be returned to:

Office of the Clerk
United States District Court
655 1st Ave North, Suite 130
Fargo, North Dakota 58102

-or-

Office of the Clerk
United States District Court
PO Box 1193
Bismarck, North Dakota 58502-1193

INVESTIGATIVE, EXPERT AND OTHER SERVICES (CJA 21)

U.S. Courts [Instructions for CJA Form 21](#)

All attorneys appointed to provide representation under the Criminal Justice Act (18 U.S.C. §3006A) may request authorization under subsection (e) of the Act to obtain investigative, expert and other services necessary for adequate representation. [§ 310.10.10](#)

In addition to investigators, psychiatrists, and psychologists, services other than counsel may include but are not limited to interpreters; computer systems and automation litigation support personnel and experts; paralegals and legal assistants, including law students; neurologists and other medical experts; and laboratory experts in such areas as ballistics, fingerprinting, and handwriting. [§ 320.70.10](#)

Claims for compensation in these categories must be made on a CJA 21. To request a CJA Form 21, please contact:

JoAnn Ordahl in Fargo at 701-297-7000 -or- Lisa Carney in Bismarck at 701-530-2300.

Ex parte applications for services other than counsel under 18 U.S.C. § 3006A(e) must be heard *in camera*, and must not be revealed without the consent of the defendant. The application must be placed under seal until the final disposition of the case in the trial court, subject to further order of the Court. Maintaining the secrecy of the application prevents the possibility that an open hearing may cause defendants to reveal their defense. [§ 310.30](#)

A description of the work performed and the time spent must be set out on the CJA 21. The hourly rate charged for the services of paralegals, legal assistants, and other non-secretarial professional support personnel (including law students) employed by appointed counsel, must not exceed the lesser of (1) the rate paid to counsel under the CJA or (2) the rate typically charged by counsel to a fee-paying client for such services. [§§ 320.70.50; National CJA Voucher Reference Tool - Paralegals, Legal Assistants, and Other Non-Secretarial Support; CJA Plan § VII\(B\)\(1\)](#)

Please note that an indigent defendant who seeks to obtain such services at government expenses bears the burden of showing that the services are indeed “necessary” to the defense.

The request should include:

1. the reason for the services being requested,
2. the name of the provider,
3. the relevant experience and qualifications of the expert/service provider,
4. the hourly rate requested or the fee arrangement, as applicable,
5. the specific services and expenses to be included,
6. if additional services/funding may be requested from/for this provider (as applicable), and
7. any other relevant information.

[National CJA Voucher Reference Tool - Authorization and Payment for Investigative, Expert and Other Services.](#)

Counsel is permitted to obtain Investigative, Expert, and Other Services, without prior approval up to **\$800**, not including reimbursement of expenses. When the compensation is expected to exceed **\$800**, counsel must request prior authorization from the presiding judge. When the compensation is expected to exceed **\$2,400**, counsel must request prior authorization from both the presiding judge and the chief judge of the circuit court. Failure to obtain prior authorization may result in a disallowance or reduction of any amount claimed for compensation in excess of the maximum, unless the presiding judge finds that timely procurement of necessary service could not await prior authorization. [§ 310.20.20](#)

Case Compensation Maximums for Investigative, Expert, and Other Services	Maximum Current	Maximum Prior to 5/27/10	Approver
Without Prior Authorization	\$800	\$500	Presiding Judge
With Prior Authorization	\$2,400	\$1,600	Presiding Judge
Amounts over maximum			Circuit Chief

[§§ 310.20.10 and 310.20.30](#)

SUBPOENAS

The “Criminal Pretrial Order and Jury Trial Notice” will serve to grant in advance defendant's application for the issuance and service of subpoenas. Upon request from counsel, the clerk’s office will issue blank subpoenas, signed and imprinted with the court seal.

The subpoena must be completed by the requesting party and must contain the following:

1. case name,
2. case number, and
3. last known residential address of the party being subpoenaed (not a PO Box).

The U.S. Marshal is unable to serve the subpoena without a residential address.

Counsel must deliver the original and two copies of the completed subpoenas directly to the United States Marshal **for service no later than ten (10) court days before the trial**. The United States Marshal will serve the subpoenas and pay witness fees for indigent defendants in the same manner as is appropriate for government witnesses.

PAYMENT OF SUBPOENAED WITNESSES

Witnesses who have reported and have been released from the subpoena must complete a Fact Witness Voucher form (OBD-3), available from the U.S. Marshal. Counsel are responsible for assisting their witnesses in completing sections A, C, D, E, F, and G of the form. Counsel should contact the U.S. Marshal's Office regarding questions about current reimbursement rates and required supporting documentation. Counsel must verify the claim by signing Section H of the Fact Witness Voucher form and submit it to the clerk's office for the completion of Section B.

Witness checks are issued by the U.S. Marshal and will be mailed to the witness. If a witness will require immediate payment, counsel must notify the U.S. Marshal prior to trial. Counsel must notify a witness if trial is canceled.

TRAVEL AUTHORIZATION AND GOVERNMENT TRAVEL RATES

Attorneys and experts must obtain a Travel Authorization from the Court for all out-of-district travel and are encouraged to obtain government rates for all travel in connection with representation pursuant to the CJA. A Travel Authorization allows attorneys and experts to obtain government travel rates. Attorneys must contact the courtroom deputies listed below for information about obtaining a Travel Authorization.

Western Divisions

Lisa Carney
Courtroom Deputy
Bismarck Clerk's Office
701-530-2300

Eastern Divisions

Shelley Giauque
Courtroom Deputy
Fargo Clerk's Office
701-297-7000

REQUEST FOR TRANSCRIPT (CJA 24)

U.S. Courts [Instructions for CJA Form 24](#)

Requests for transcripts should be claimed on CJA Form 24, "Authorization and voucher for Payment of Transcript." To request a CJA Form 24, please contact the clerk's office.

JoAnn Ordahl in Fargo at: 701-297-7000 -or- Lisa Carney in Bismarck at: 701-530-2300.

For additional information regarding claims for the time spent reviewing a transcript, see the section entitled "[Transcript Review](#)" under "Compensation and Expenses of Appointed Counsel (CJA 20)."